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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 16 April 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Chile to the United Nations addressed to the Chairman of the Committee

I have the honour to transmit herewith the report of Chile in implementation of Security Council resolution 1390 (2002) (see annex).

I would be grateful if you could circulate this report as a Security Council document.

(*Signed*) Cristián **Maquieira**
Ambassador
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Annex to the letter dated 16 April 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Chile to the United Nations addressed to the Chairman of the Committee

Report of Chile in implementation of Security Council resolution 1390 (2002)

Introduction

1. Resolution 1390 (2002) dated 16 April 2002 of the Security Council — acting under Chapter VII of the United Nations Charter — in its paragraph 6, requested all States to report to the Committee established under Council resolution 1267 (1999) (1267 Committee) no later than 90 days from the date of adoption of that resolution on the steps they have taken to implement the measures referred to in its paragraph 2.

2. As stated in the guidelines for submission of reports under the aforesaid resolution 1390 (2002), it is the responsibility of States to implement and enforce those measures.

3. Accordingly, the State of Chile is submitting the report which follows to the 1267 Committee in implementation of the request contained in resolution 1390 (2002) and in accordance with the guidelines it issued on the submission of reports.

Content of resolution 1390 (2002)

4. The Security Council, reaffirming its resolutions relating to Afghanistan, reaffirming its unequivocal condemnation of the terrorist attacks that occurred in New York, Washington and Pennsylvania on 11 September 2001, noting that Osama bin Laden and the Al-Qaida organization are continuing to carry out activities in support of international terrorism and having determined that the Taliban have not met the demands made in resolutions 1214 (1998), 1267 (1999) and 1333 (2000), decided in paragraph 2 of resolution 1390 (2002) that all States shall take a series of measures that may be generically described as aimed at immediately freezing the funds and other financial assets or economic resources of Osama bin Laden, members of the Al-Qaida organization and the Taliban or other individuals, groups, undertakings or entities associated with them, as mentioned in the list created under resolutions 1267 (1999) and 1333 (2000) prepared and updated by the aforesaid 1267 Committee, and preventing their entry into or transit through their territories and the supply, sale and transfer to them of arms and related materiel of all types, or technical advice, assistance or training related to military activities.

Measures adopted by Chile in implementation of the resolution

5. As a first step taken by Chile to implement Security Council resolution 1390 (2002), a Supreme Decree of the President of the Republic was issued. In addition, the relevant authorities and public entities were ordered to ensure compliance with the aforesaid resolution in all areas that came within their competence. Lastly, the complete authorized text of the resolution and of the new consolidated list issued by

the Committee in implementation of resolutions 1267 (1999) and 1333 (2000) were published in the Official Journal.

6. With regard to the specific measures to be taken under subparagraphs (a), (b) and (c) of paragraph 2 of resolution 1390 (2002) designed to freeze without delay the funds and other financial assets or economic resources of those individuals, groups, undertakings and entities, prevent the entry into or the transit through Chilean territory of those individuals and prevent the supply, sale and transfer to them of arms and related materiel of all types, including technical advice, assistance or training related to military activities, the Ministries of Finance, Interior and Defence have also been specifically required to do whatever may be necessary to implement those measures, as have the relevant State Secretariats, which have also been given the new consolidated list issued by the 1267 Committee.

Information submitted to the Counter-Terrorism Committee

7. Without prejudice to the foregoing and account being taken of item 5 of the guidelines on the submission of reports, it is noted that the Counter-Terrorism Committee established under resolution 1373 (2001) (see S/2002/5) has been informed about the following aspects which come within the mandate of the 1267 Committee:

(a) With regard to the legislative and administrative measures to be taken to freeze funds and other financial assets or economic resources, attention should be drawn to Chile's response to subparagraph (c) of the paragraph containing question 1 of the questionnaire submitted to the aforementioned Counter-Terrorism Committee (page 9 seqq. of the report). To be noted, in particular, is the fact that Chilean criminal procedure legislation only provides that funds associated with crimes or ordinary offences can be seized, impounded or confiscated. Consequently, there are no special rules requiring an administrative decree to freeze assets and consideration is being given to bridging that legislative gap;

(b) With regard to measures to prevent the entry to or transit through Chilean territory, reference should be made to a statement in the above-mentioned report. Responses to paragraph 2 (b), (c) and (g) and to paragraph 3 (f) and (g) are to be found on pages 13, 14 and 15. In particular, it is pointed out that Chilean immigration laws contain provisions having the effect of prohibiting entry to the country and expelling foreign nationals involved in terrorist acts or rescinding their residence permits;

(c) With regard to measures to prevent the supply, sale and transfer of arms and related materiel of all types, the 1267 Committee should note the reply in paragraph 2 (a) (ii) (page 11). Moreover, Chile asserts that, in accordance with the Arms Control Act (Act 17,798), generally speaking, the manufacture, equipment, import or export of arms or controlled materials and the ownership of installations for the manufacture, equipping or storage or deposit of arms must be authorized by the Chilean Ministry of Defence or the Division for National Mobilization, as the case may be. In addition, at all times, reports of exports of arms and war-related materials must be brought to the attention of an Advisory Committee of the Defence Ministry, which shall decide on each export application. On the other hand, nobody in Chile can possess or own arms and controlled materials or ship, store, distribute or enter into agreements on those arms or materials without the necessary

authorization. For that reason, under the rules in force in Chile, the Government is in a position to fulfil the administrative requirements imposed by the Security Council.

Additional information

8. A further aspect to note, according to item 5 of the guidelines, which also applies to the report issued under resolution 1373 (2001), has to do with the Convention on the Financing of Terrorism that came into force as an international instrument on 10 April 2002. Article 8 of the Convention deals with the identification, detection, insurance or seizure of funds used or allocated for the purpose of committing the offences listed therein, which is related to measures on freezing the funds, assets and other financial or economic resources of Osama bin Laden, members of the Al-Qaida organization or the Taliban and other individuals, groups, undertakings or entities associated with them. Since Chile deposited its instrument of ratification on 10 November 2001, the Convention will become part of the national regulations.

9. Also, with respect to that international instrument, Chile wishes to reiterate what it stated in its reply to subparagraph (a) which contains question 1 of the questionnaire submitted to the Counter-Terrorism Committee, to the effect that the Government of Chile is studying how to bring criminal charges against the perpetrators cited in the Convention so that it can proceed to its full implementation, which has become mandatory since the Convention came into force.

10. Moreover, to supplement the Chilean report, paragraph 1 (a) on the prevention and suppression of the financing of terrorist acts in which the identities of those listed by the 1267 Committee were noted, disseminated and investigated in pursuance of the respective Security Council resolutions, it should be pointed out that as of 18 January 2002, the tax authorities of those banking institutions stated that in the investigation of those listed, no banking institution had reported that the individuals and organizations on the list were or had been their clients. Once again, under the new consolidated list issued by the 1267 Committee on 15 March 2002, Chile is submitting the updated data to the relevant tax authorities.

11. In addition, Chile has just completed active participation in negotiations in the Organization of American States (OAS) on a draft inter-American Convention against Terrorism. The Convention is expected to be adopted at the next OAS General Assembly and its primary objective is to prevent, punish and eliminate terrorism. It contains special regulations for preventing, combating and eradicating the financing of terrorism, embargoing and confiscating funds and other assets and offences indicating money-laundering.

12. It should also be noted that the inter-ministerial Group, with the Minister for Foreign Affairs as coordinator, to which reference was made in the report submitted to the Counter-Terrorism Committee (S/2002/5, appendix), has continued working and studying the measures to be adopted domestically to implement resolution 1373 (2001) as well as those imposed by resolution 1390 (2002) and will continue its efforts in future with a view to complying with the obligations inherent both in those resolutions and in the international conventions to which Chile is a party.

13. On the other hand, Chile points out the need for adequate international cooperation in order fully to implement the measures called for by resolutions 1373 (2001) and 1390 (2002), since their effectiveness depends not only on a State's activity, but on the collective participation and timely collaboration by all States.

14. The action described above provides an account of the specific steps taken by Chile to implement resolution 1390 (2002) and the measures it imposes. Chile will continue to exert the necessary effort to ensure respect for the rule of law called for in the United Nations Charter and the international treaties in force.